

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ARTHUR S. WEST,

Plaintiff,

v.

MARK LINDQUIST, et al.,

Defendants.

CASE NO. C15-5533 BHS

ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS

This matter comes before the Court on Defendants Mark Lindquist and Pierce County's ("Defendants") motion to dismiss (Dkt. 4).

On July 1, 2015, Plaintiff Arthur West ("West") served the Pierce County Auditor with a complaint naming the County and Pierce County Prosecutor Mark Lindquist as defendants but did not file it with the state court. Dkts. 1, 1-2, 1-4. On July 20, 2015, pursuant to Washington Court Rule 3(a), Defendants demanded in writing that West "file the summons and complaint." Dkt. 1-4. On July 31, 2015, Defendants removed the matter to this Court. Dkt. 1. On August 6, 2015, Defendants filed a motion to dismiss. Dkt. 4. West did not respond.

1 In this case, Defendants argue that the Court should dismiss the complaint for lack
2 of jurisdiction. Dkt. 4 at 2. Defendants contend that if West fails to file the complaint in
3 state court within 14 days after Defendants' written request, then service is null and void.
4 Washington CR 3(a). While the Court agrees with that contention, it does not follow that
5 the Court lacks subject matter jurisdiction over this action for failure to properly serve. It
6 seems more appropriate for the Court to dismiss the action for insufficiency of service.
7 In such circumstances, the Court has discretion whether to dismiss an action for
8 insufficient service or quash service and allow West another opportunity to perfect
9 service. *Stevens v. Security Pac. Nat'l Bank*, 538 F.2d 1387, 1389 (9th Cir. 1976). The
10 Court concludes that dismissal without prejudice is appropriate. West is a vexatious
11 litigant in this Court (*see* MC11-5022RBL) and, based on the allegations in the
12 complaint, West's failure to file the complaint in state court, and West's failure to
13 respond to Defendants' motion this is another lawsuit intended to harass government
14 officials. Therefore, the Court **GRANTS** Defendants' motion to dismiss. The Clerk
15 shall close this case.

16 **IT IS SO ORDERED.**

17 Dated this 8th day of September, 2015.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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